



# IN THE 31ST JUDICIAL CIRCUIT, GREENE COUNTY, MISSOURI


Service

Judge or Division: MICHAEL J CORDONNIER	Case Number: 2031-CC00055
Plaintiff/Petitioner: CHARLES MINGUS	Plaintiffs/Petitioner's Attorney/Address JERRY MICHAEL KIRKSEY 711 S ALBANY AVE BOLIVAR, MO 65613
Defendant/Respondent: KRAFT HEINZ FOODS COMPANY	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Employmnt Discrmtn 213.111	

(Date File Stamp)

## Summons in Civil Case

**The State of Missouri to: KRAFT HEINZ FOODS COMPANY**  
**Alias:**  
 R/A CT CORPORATION SYSTEM  
 120 S CENTRAL AVE  
 CLAYTON, MO 63105

**COURT SEAL OF**  
  
 GREENE COUNTY

**You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.**

01/14/2020  
Date

/S/ THOMAS R. BARR BY CR  
Clerk

Further Information:

### Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
 in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public If not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

### Sheriff's Fees, If applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ \_\_\_\_\_

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

## IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

CHARLES MINGUS,

Plaintiff,

v.

KRAFT HEINZ FOODS COMPANY,

May be served to  
 Registered Agent  
 CT Corporation System  
 120 South Central Ave  
 Clayton, MO 63105  
 Defendant.

Case No. \_\_\_\_\_

<b>PETITION</b>
-----------------

COMES NOW Plaintiff, by and through counsel, and for his Petition, states as follows:

**GENERAL ALLEGATIONS**

1. Plaintiff is a citizen of Webster County, Missouri at all times pertinent to this Petition.
2. Defendant, Kraft Heinz Foods Company, (hereinafter "Kraft"), is a Foreign Limited Liability Company in good standing and registered to do business in the State of Missouri, which may be served through its Registered Agent, C T Corporation System, 120 South Central Ave, Clayton, MO 63105.
3. Kraft employed greater than 15 employees at the time of the events described by Plaintiff.
4. Kraft conducts business at 2035 E. Bennett St, Springfield, Mo 65803, therefore venue is proper in this Court.

5. Plaintiff has a handicap of respiratory condition consisting of bronchial asthma, or in the alternative, was regarded or perceived as having a handicap/disability.
6. Plaintiff communicated his handicap/disability to his supervisor.
7. On information and belief, Defendant had knowledge of plaintiff's handicap/disability, and/or regarded or perceived plaintiff as having a handicap/disability.
8. Plaintiff sought reasonable accommodations for his handicap/disability from his supervisor and department.
9. Plaintiff was able to perform all functions, duties and responsibilities required of his position with Defendant despite and with reasonable accommodation of his handicap/disability.
10. No action was taken by defendant to provide reasonable accommodations to plaintiff or determine whether the Defendant would have any hardship in accommodating the handicap/disability of plaintiff.
11. In fact, upon information and belief, Defendant delayed providing an accommodation for Plaintiff for an extended period of time.
12. Reasonable accommodations existed, and no hardship incurred by the Defendant in accommodating the handicap/disability of plaintiff.
13. Plaintiff voiced opposition to his handicap/disability being held against him by his supervisors and Defendant.
14. As an act of discrimination, and retaliation motivated by plaintiff's opposition to request for accommodation due to his handicap/disability, Defendant discriminated and retaliated against in that:

- a. Plaintiff was advised against requesting a workplace accommodation;
  - b. Plaintiff was then subject to four disciplinary actions, after receiving no disciplinary actions, to his knowledge, the previous four years;
  - c. Plaintiff's handicap/disability was a motivating factor and reason for the disciplinary actions;
15. Plaintiff reported to supervisors and Defendant that the disciplinary actions were in retaliation to his requesting a reasonable accommodation for his handicap/disability.
16. Upon information and belief, Defendant failed to follow procedure in investigating Plaintiff's claims of discrimination and retaliation.
17. Upon information and belief, Defendant has a policy including a prohibition on retaliation.
18. Plaintiff was terminated December 7, 2019 based on a prior retaliatory Final Warning of which Plaintiff had reported as an act of discrimination and retaliation.
19. Plaintiff's voiced opposition to discrimination against himself and retaliation was a motivating factor for the actions herein.

#### **COUNT I – DISCRIMINATION**

**COMES NOW** Plaintiff and for Count I, states:

20. Incorporate herein the General Allegations.
21. Plaintiff was an 'employee' within the meaning of § 213 RSMo *et seq*
22. Defendant is an 'employer' within the meaning of § 213 RSMo *et seq*.
23. Defendant discriminated against plaintiff as set forth herein.
24. With respect to the unlawful employment practices, a Charge of Discrimination was filed with the Missouri Commission of Human Rights ('MCHR'). Attached

hereto **Exhibit A** is a true and accurate copy of the Charge of Discrimination made part hereof by reference as to the facts set forth therein.

25. Said Charge of Discrimination was filed with the MCHR within 180 days of the most recent unlawful employment practices alleged, and more than 60 days prior to the commencement of this action.
26. With respect to the Charge of Discrimination, Plaintiff was issued a Right to Sue letter by the MCHR, informing him of his right to pursue independent legal action and this action is filed in a timely manner within 90 days of receipt of the Right to Sue. Attached hereto **Exhibit B** is a true and accurate copy of the Right to Sue.
27. Defendants engaged in unlawful employment practices, as set forth herein, against Plaintiff in violation of Chapter 213 RSMo., *et seq* in that Plaintiff was subject to a hostile environment of discrimination and retaliation which Defendants were aware of and failed to stop or prevent.
28. Defendants' actions, as set forth herein, were discriminatory, continuous, arbitrary and capricious and Defendants knew such actions were unlawful. The actions of Defendants were intentional, willful and calculated toward Plaintiff and constituted willful violations of Chapter 213 RSMo., *et seq*.
29. Plaintiff has been monetarily damaged by Defendants' unlawful practices in violation of Chapter 213 RSMo., *et seq*., and has also suffered physical and mental pain, anguish and distress.

**WHEREFORE**, Plaintiff prays the Court:

- A. Adjudge and decree that Defendants discriminated/retaliated against Plaintiff, and that said actions by Defendants were willful violations of

the Act;

- B. Order Defendants to make Plaintiff whole for the loss of income he has suffered as a result of Defendants' unlawful employment practices, including back pay from the time of the unlawful discrimination, wage increases and reimbursement of any lost fringe benefits, Social Security contributions, front pay, and all other monetary compensation, including prejudgment interest, for injuries and damages suffered by Plaintiff;
- C. Award Plaintiff attorney's fees, costs and all other relief afforded under Chapter 213 RSMo., *et seq.*, and;
- D. For all other relief the Court deems just and proper.

### **COUNT II – RETALIATION**

**COMES NOW** Plaintiff and for Count II, states:

- 30. Incorporate herein the General Allegations.
- 31. Plaintiff was an 'employee' within the meaning of § 213 RSMo *et seq*
- 32. Defendant is an 'employer' within the meaning of § 213 RSMo *et seq*.
- 33. Defendant retaliated against plaintiff as set forth herein.
- 34. With respect to the unlawful employment practices, a Charge of Discrimination was filed with the Missouri Commission of Human Rights ('MCHR'). Attached hereto **Exhibit A** is a true and accurate copy of the Charge of Discrimination made part hereof by reference as to the facts set forth therein.
- 35. Said Charge of Discrimination was filed with the MCHR within 180 days of the most recent unlawful employment practices alleged, and more than 60 days prior

to the commencement of this action.

36. With respect to the Charge of Discrimination, Plaintiff was issued a Right to Sue letter by the MCHR, informing him of his right to pursue independent legal action and this action is filed in a timely manner within 90 days of receipt of the Right to Sue. Attached hereto **Exhibit B** is a true and accurate copy of the Right to Sue.
37. Defendants engaged in unlawful employment practices, as set forth herein, against Plaintiff in violation of Chapter 213 RSMo., *et seq* in that Plaintiff was subject to a hostile environment of discrimination and retaliation which Defendants were aware of and failed to stop or prevent.
38. Defendants' actions, as set forth herein, were discriminatory, continuous, arbitrary and capricious and Defendants knew such actions were unlawful. The actions of Defendants were intentional, willful and calculated toward Plaintiff and constituted willful violations of Chapter 213 RSMo., *et seq*.
39. Plaintiff has been monetarily damaged by Defendants' unlawful practices in violation of Chapter 213 RSMo., *et seq.*, and has also suffered physical and mental pain, anguish and distress.

**WHEREFORE**, Plaintiff prays the Court:

- A. Adjudge and decree that Defendants discriminated/retaliated against Plaintiff, and that said actions by Defendants were willful violations of the Act;
- B. Order Defendants to make Plaintiff whole for the loss of income he has suffered as a result of Defendants' unlawful employment practices, including back pay from the time of the unlawful discrimination, wage

increases and reimbursement of any lost fringe benefits, Social Security contributions, front pay, and all other monetary compensation, including prejudgment interest, for injuries and damages suffered by Plaintiff;

- C. Award Plaintiff attorney's fees, costs and all other relief afforded under Chapter 213 RSMo., *et seq.*, and;
- D. For all other relief the Court deems just and proper.

*/s/Jay Kirksey*

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**Jerry M. (Jay) Kirksey**  
Missouri Bar No. 38643  
Attorney for Plaintiff

*/s/Jesse T. Ankrom*

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**Jesse T. Ankrom**  
Missouri Bar No. 67080  
Attorney for Plaintiff

**KIRKSEY LAW FIRM, L.L.C.**  
711 S. Albany Avenue  
Bolivar, Missouri 65613-2619  
Telephone 417.326.4529  
Facsimile 417.326.8531  
[jmkirksey@kirkseylawfirm.com](mailto:jmkirksey@kirkseylawfirm.com)

*Attorneys for Plaintiff*



2031-CC00055

## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; see Privacy Act Statement before completing this form.

ENTER CHARGE NUMBER

☐ FEPA E-0119-5049  
☐ EEOC 28E-2019-00497

## MISSOURI COMMISSION ON HUMAN RIGHTS AND EEOC

NAME (Indicate Mr., Ms., or Mx.)

Charles A. Mingus

DATE OF BIRTH

May 12, 1978

HOME TELEPHONE NO.

(Include Area Code)  
417-844-4335

STREET ADDRESS

410 N. Mill St

City, State and Zip Code

Marshfield, MO 65706

County

Webster

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP, COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below).

NAME

Kraft Heinz Foods Company

NO. OF EMPLOYERS/EMPLOYS

&gt; 15

TELEPHONE NUMBER (Include Area Code)

417-881-2701

STREET ADDRESS

2035 E. Bennett St

CITY, STATE AND ZIP CODE

Springfield, Mo 65804

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION  
☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE  
☒ DISABILITY ☐ OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE (Month, Day, Year)

December 7, 2018

☒ CONTINUING ACTION

THE FOLLOWING ARE (If additional space is needed, attach extra sheet(s)):

I was employed as a general laborer for Kraft Heinz from March 2014 until I was terminated on December 7, 2018. I had a history of excellent performance reviews and received no writes ups or reprimands, to my knowledge, until May of 2018 and only after I had requested an accommodation for my disability/handicap related to respiratory. My immediate supervisor is Shannon Derrick and the production supervisor is Sheldon Taylor, and the Human Resource Specialist I first dealt with was Mandy Emory.

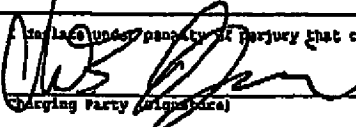
I requested an accommodation for my disability related to my bronchial asthma condition beginning in April 2018, pursuant to a doctor recommendation. My condition made it difficult to work in the full body personal protection suits as well as the mono-goggle required. I spoke with my doctor and was informed my condition could worsen at times of physical exertion and compounded when in the body suits and goggles I had to wear at work. My doctor recommended I not be required to wear a closed-system personal protection equipment. My request for the workplace accommodation was initially delayed for 3 months with no reasonable explanation. When I initially requested the workplace accommodation the HR specialist Mandy seemed to advise against the request which concerned me. The write ups and reprimands, or disciplinary actions, began shortly after my request for a workplace accommodation and I believe were in retaliation to my request. After receiving no disciplinary actions, to my knowledge, in the previous four years I was suddenly subjected to four bogus, ridiculous and trumped-up disciplinary actions. I feel they were retaliating against my protected activity of requesting a workplace accommodation in order to justify firing me rather than providing the accommodation I had should have been allowed. I am not the only one who has requested an accommodation for a disability or handicap and after suffered retaliation in the form of write-ups or reprimands. I am aware that Brian Woodroof was retaliated against by management.

I appealed all the disciplinary actions in an attempt to show them they were bogus and retaliatory. In one appeal I specifically mentioned to the head of the cheese and dairy department that these disciplinary actions were in retaliation to my disability/handicap and request for an accommodation. To my knowledge, I don't believe the company followed the procedures and protocols in investigating my claims of discrimination and retaliation. Instead they rubber-stamped their "disciplinary actions" and subsequently fired me to avoid having to accommodate my disability.

I was terminated December 7, 2018 based on a prior retaliatory Final Warning of which I had already reported as an act of discrimination and retaliation. I have appealed the termination. During this process I have reported, again, the retaliation due to my disability/handicap and that led to my final termination, but no one seems to want to listen. To this date, I still don't think Kraft has investigated my report of discrimination/retaliation, though Kraft policy requires an investigation and finding, with prohibition of retaliation as has occurred.

EXHIBIT

A

<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the state or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY - (When necessary to meet State and Local Requirements)  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
I declare under penalty of perjury that the foregoing is true and correct.  Charging Party (Signature)	SIGNATURE OF COMPLAINANT?  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month and year)
1-10-2019 Date	

File No. 11517-001

**FILED**  
 JAN 11 2019  
 MO Commission on Human Rights  
 Jefferson City Office



MICHAEL L. PARSON  
GOVERNOR

MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
**MISSOURI COMMISSION ON HUMAN RIGHTS**

ANN S. HUI  
DEPARTMENT DIRECTOR

MARTHA STAGGS  
COMMISSION CHAIR

ALISA WARREN, Ph.D.  
EXECUTIVE DIRECTOR

Charles A. Mingus  
410 N. Mill St.  
Marshfield, MO 65706

E-1/19-50487  
Administrative Unfairness

RE: Mingus vs. Kraft Heinz Foods Co.  
E-1/19-50487 28E-2019-00497

The Missouri Commission on Human Rights (MCHR) is terminating its proceedings and issuing this notice of your right to sue under the Missouri Human Rights Act because you have requested a notice of your right to sue.

This letter indicates your right to bring a civil action within 90 days of this notice against the respondent(s) named in the complaint. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred but it must be brought no later than two years after the alleged cause occurred or its reasonable discovery. Upon issuance of this notice, the MCHR is terminating all proceedings relating to the complaint. No person may file or reinstate a complaint with the MCHR after the issuance of a notice of right to sue relating to the same practice or act. You are hereby notified of your right to sue the Respondent(s) named in your complaint in state circuit court. **THIS MUST BE DONE WITHIN 90 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO SUE IS LOST.**

You are also notified that the Executive Director is hereby administratively closing this case and terminating all MCHR proceedings relating to it. This notice of right to sue has no effect on the suit-filing period for any federal claims. This notice of right to sue is being issued as required by Section 213.111.1, RSMo, because it has been over 180 days after the filing of this complaint and MCHR has not completed its administrative processing.

Respectfully,

Alisa Warren Ph.D.  
Executive Director

December 4, 2019  
Date

Kraft Heinz Foods Co.  
2035 E. Bennett St.  
Springfield, MO 65804

Kirksey Law Firm, LLC  
Jay Kirksey  
711 South Albany Ave.  
Bolivar, MO 65613  
Via email



3315 WEST TRUMAN BLVD., SUITE 212  
P.O. Box 1129  
JEFFERSON CITY, MO 65102-1129  
PHONE: 573-751-3325  
FAX: 573-751-2905

111 N. 7TH STREET, SUITE 903  
ST. LOUIS, MO 63101-2100  
PHONE: 314-340-7590  
FAX: 314-340-7238

1410 GENESSEE, SUITE 280  
KANSAS CITY, MO 64102-1047  
FAX: 816-889-3582

108 ARTHUR STREET, SUITE D  
BREXTON, MO 63801-5454  
FAX: 573-472-5321

Missouri Commission on Human Rights is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.  
TDD/TTY: 1-800-735-2888 (TDD) Relay Missouri: 711  
www.labor.mo.gov/mohumanrights E-Mail: mchr@labor.mo.gov